



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 10451853

DATE: OCT. 1, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for an Advanced Degree Professional

The Petitioner, a social network website, seeks to employ the Beneficiary as a lead applications engineer. It requests advanced degree professional classification for the Beneficiary under the second preference immigrant category. Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based “EB-2” immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition on the ground that the evidence of record did not establish that the Beneficiary met the minimum experience and special skills requirements of the labor certification.

On appeal the Petitioner asserts that the Director’s decision incorrectly evaluated the documentation it submitted and that the evidence of record establishes that the Beneficiary acquired the experience and special skills required by the labor certification.

In visa petition proceedings it is the Petitioner’s burden to establish eligibility for the requested benefit. *See* section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL). *See* section 212(a)(5) of the Act, 8 U.S.C. § 1182(a)(5). By approving the labor certification, the DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. *See* section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national may apply for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

The term “advanced degree” is defined in the regulation at 8 C.F.R. § 204.5(k)(2) as follows:

Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree.

The regulations at 8 C.F.R. § 204.5(k)(3)(i) state that a petition for an advanced degree professional must be accompanied by either:

- (A) An official academic record showing that the alien has a United States advanced degree or a foreign equivalent degree; or
- (B) An official academic record showing that the alien has a United States baccalaureate degree or a foreign equivalent degree, and evidence in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty.

In addition, a beneficiary must meet all of the education, training, experience, and other requirements specified on the labor certification as of the petition's priority date,¹ which in this case is December 20, 2018. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 159 (Acting Reg'l Comm'r 1977).

II. ANALYSIS

The labor certification in this case specifies the following in section H (Job Opportunity Information) regarding the requirements for the position of lead applications engineer:

4.	Education: Minimum level required:	Bachelor's degree
4-A.	Major field of study	Computer Science, Computer Engineering, or related
5.	Is training required for the job?	No
6.	Is experience in the job offered required?	Yes
6-A.	How long?	60 months
8.	Is an alternate combination of education and experience acceptable?	No
9.	Is a foreign educational equivalent acceptable?	Yes
10.	Is experience in an alternate occupation acceptable?	Yes
10-A.	How long?	60 months
10-B.	What job title(s)?	Software Engineer, Software Applications Developer
14.	Specific skills or other requirements:	

After reiterating the above educational and experience requirements, and stating that any suitable combination of education, training, or experience is acceptable, section H.14 requires:

¹ The priority date of a petition is the date the underlying labor certification was filed with the DOL. 8 C.F.R. § 204.5(d).

- Experience developing Object-Oriented Software; developing software for Unix-Linux Operating Systems; designing, developing, testing and maintaining Distributed Systems; developing asynchronous Web Applications; designing and optimizing MySQL databases; developing, configuring and deploying Apache Tomcat Web Applications.
- Experience with integration of Third Party APIs and Data.
- Experience with Java, JUnit, MySQL, SQL, Javascript, Shell Scripting (Bash), SSL-enabled Distributed Systems.
- Experience developing highly scalable Backend APIs to power Mobile Applications.
- Experience with key-value stores like Memcached.
- Experience developing applications for document-store databases like MongoDB.
- Must pass technical interview and/or design test.

Thus, the minimum educational requirement of the labor certification is a U.S. bachelor's or foreign equivalent degree in computer science, computer engineering, or a related field of study. The minimum experience requirement is five years as an applications engineer, software engineer and/or software applications developer, including experience in the specific skills listed in section H.14 of the labor certification.² The Beneficiary must meet all of these requirements to qualify for the requested visa classification of advanced degree professional.

The record includes copies of the Beneficiary's transcript and diploma from [REDACTED] [REDACTED], showing that he was awarded the title of *Ingeniero en Computacion* (Computer Technology Engineer) on February 7, 2002, following completion of a multi-year course of study in the years 1996-2001. We find that this Mexican degree is equivalent to a U.S. baccalaureate degree in the computer field. As such it meets the minimum educational requirement of the labor certification as well as the minimum educational requirement to qualify for classification as an advanced degree professional.

As for the Beneficiary's qualifying experience, the regulation at 8 C.F.R. § 204.5(k)(3)(i)(B) states that evidence thereof must be "in the form of letters from current or former employer(s) showing that the alien has at least five years of progressive post-baccalaureate experience in the specialty." More specifically, the regulation at 8 C.F.R. § 204.5(g)(1) provides that employment verification letters "shall include the name, address, and title of the writer, and a specific description of the duties performed by the alien." Section K of the labor certification (Alien Work Experience) lists seven jobs for the Beneficiary that post-dated his baccalaureate level degree in February 2002³ and pre-dated the

² The Petitioner indicates that the last item listed in section H.14 – the requirement that the Beneficiary "must pass technical interview and/or design test" – was met when the Beneficiary successfully passed the requisite test before being hired by the Petitioner (in January 2015). No details about the interview or design test have been provided, however, nor any documentary evidence thereof.

³ Experience that predates the awarding of the Beneficiary's baccalaureate level degree is not qualifying experience in a petition for advanced degree professional classification because it is not "post-baccalaureate experience" as required by

commencement of his job with the Petitioner as lead applications engineer in January 2015,⁴ the time period in which the Beneficiary could gain qualifying experience. They include the following, in reverse chronological order:

- [REDACTED] in [REDACTED] Canada – where the Beneficiary claims to have worked as a senior software engineer from August 12, 2013 to May 30, 2014.
- [REDACTED] in [REDACTED] California – where the Beneficiary claims to have worked as a senior software engineer from June 22, 2009, to July 29, 2011.
- [REDACTED] in [REDACTED] California – where the Beneficiary claims to have worked as a senior applications developer from January 30, 2006, to June 30, 2008.
- The [REDACTED] in [REDACTED] California – where the Beneficiary claims to have worked as a computer systems analyst from February 1, 2005, to January 13, 2006.
- [REDACTED] in [REDACTED] – where the Beneficiary claims to have worked as an applications developer from October 12, 2004, to December 31, 2004.
- [REDACTED] in [REDACTED] Mexico – where the Beneficiary claims to have worked as a systems developer from October 1, 2003, to January 16, 2004.
- [REDACTED] in [REDACTED] Mexico – where the Beneficiary claims to have worked as software engineer from January 15, 2003, to September 15, 2003.

The Director found the evidence of record insufficient to establish that the Beneficiary gained any qualifying experience with the companies listed above. We do not agree with the Director's decision in full. Based on the entire record, however, we likewise conclude that the Petitioner has not established that the Beneficiary gained five years of qualifying experience, as required to meet the terms of the labor certification and qualify for classification as an advanced degree professional. Hereinafter we will discuss the documentary evidence, the Director's analysis, and our own conclusions with respect to the claims of qualifying experience at each of the seven jobs listed above.

1. [REDACTED] - August 12, 2013 to May 30, 2014

The record includes copies of the following documents, in order of submission:

- A certificate of employment, dated June 19, 2018, and signed by the CFO, [REDACTED] stating that the Beneficiary was employed as a senior software engineer an average of 40 hours per week from August 12, 2013, to May 30, 2014, receiving an annual salary of \$75,000.
- A letter dated July 26, 2013, from [REDACTED] s CFO, [REDACTED] addressed to the Beneficiary, which referenced a TN visa application to work for the client [REDACTED] in [REDACTED]

8 C.F.R. § 204.57(k)(3)(iv)(B). Thus, the Beneficiary's asserted experience as a programmer with [REDACTED] [REDACTED] in [REDACTED] from April 15, 2000, to July 15, 2001 – listed at section K.i of the labor certification – cannot be qualifying experience under any circumstances, without even addressing the issue of whether programming is an acceptable alternate occupation under the terms of the labor certification.

⁴ Section J.21 of the labor certification indicates that the Beneficiary did not gain any qualifying experience with the Petitioner in a position substantially comparable to the proffered position in this proceeding.

North Carolina, as a Java programmer analyst, indicated the duration of the contract, stated that the job required “significant experience developing in Java on Windows/Linux based environments,” and described the Beneficiary’s job duties as follows:

[The Beneficiary] will be acting as the on-site extension of our Java development team. He will be interacting with the customer, verifying our application works in their environment and providing test cases and feedback to the team in [REDACTED]. Further responsibilities include analyzing user requirements, reviewing current systems, documenting requirements and producing design documents. These design documents may include workflow charts and diagrams in sufficient detail to present to the client as proposed solutions to their needs. He may also be required to produce time and cost estimates for completing projects for the client. [The Beneficiary’s] duties will also include developing, modifying, testing, and installing programs and/or coordinating the work of team members to do so.

- A letter from [REDACTED]’s CFO to the Beneficiary, dated July 24, 2013, offering employment as a full-time Java software engineer at an annual salary of \$75,000 with an initial client location of [REDACTED] North Carolina, along with an employment agreement of the same date for work as a Java software engineer that was signed by the Beneficiary on July 26, 2013.
- 2013 and 2014 Forms W-2, Wage and Tax Statements, issued by [REDACTED] to the Beneficiary, showing that the Beneficiary received “wages, tips, other compensation” of \$25,704.34 in 2013 and \$34,728.45 in 2014, along with all of the Beneficiary’s bimonthly pay statements covering the employment period from August 12, 2013, to May 31, 2014.
- An employment verification letter from [REDACTED]’s CFO, [REDACTED] to USCIS, dated December 3, 2019, “to confirm that [the Beneficiary] was employed as a senior software engineer from August 12, 2013, to May 30, 2014,” compensated at an annual salary of \$75,000,

performed the following duties:

- Development, deployment and maintenance of a Spring / AngularJS / MongoDB web application for communication of mobile devices and backend servers,
- Testing and troubleshooting of ATM applications middleware and hardware,

and had the following responsibilities:

- Development of Asynchronous Web Applications in Javascript,
- Development of Websockets Web Applications in Java in the MongoDB document store database,
- Test suite development in SoapUI,
- SSL configuration for web applications and databases,
- Linux/Unix operating systems,
- Java programming,
- C programming.

While the foregoing payment records establish that the Beneficiary was employed by [REDACTED] as claimed, from August 12, 2013 to May 30, 2014, the Director concluded that the other documentation did not establish that the Beneficiary gained any qualifying experience in the job. In his decision the Director stated that “[t]he experience letter, offer of employment, and employment agreement from [REDACTED] . . . are insufficient because they define and explain the contract between the petitioner and beneficiary instead of describing the job duties and responsibilities performed by the beneficiary.”⁵ The Director apparently overlooked the December 3, 2019, letter from [REDACTED]’s CFO, which did provide a detailed description of the Beneficiary’s duties and responsibilities in the job of senior software engineer. The job title identified in the letter of December 3, 2019, however, conflicts with the job title in the previous letter from [REDACTED]’s CFO of July 26, 2013, which referred to the proffered position as a Java programmer analyst. It is incumbent upon a petitioner to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Though other evidence in the record also refers to the proffered position as a software engineer, including the Beneficiary’s offer of employment letter and the employment agreement of July 24, 2013, and the subsequent employment verification letters in 2018 and 2019, the Petitioner has not explained why the letter of July 26, 2013, from its CFO identified the Beneficiary’s job as a programmer analyst. This conflict raises questions about the true nature of the Beneficiary’s job with [REDACTED] and whether the Beneficiary gained any qualifying experience there.

For the reasons discussed above, we conclude that the Petitioner has not established that the Beneficiary gained any qualifying experience with [REDACTED]

2. [REDACTED] – June 22, 2009 to July 29, 2011

The record includes copies of the following documents, in order of submission:

- Two letters from the human resources office, dated August 8, 2011, and May 9, 2018, stating that the Beneficiary was employed as a full-time senior software engineer from June 22, 2009, to July 29, 2011.
- An offer of employment letter from [REDACTED] to the Beneficiary, dated June 2, 2009, for the position of senior software engineer at an annual salary of \$80,000.
- A patent application award letter from [REDACTED]’s CEO to the Beneficiary, dated April 14, 2011, thanking him for his contribution to building [REDACTED]’s intellectual property patent portfolio and awarding him \$400 for two specific patent applications, submitted on December 8, 2010, in which the Beneficiary is identified as the inventor.

⁵ As another ground for concluding that the Beneficiary gained no qualifying experience at [REDACTED] the Director stated that the employment verification letter was “missing” some of the specific skills listed in section H.14 of the labor certification. “Missing” some of the skills from section H.14, however, was not a valid ground for denial because nothing in section H.14 requires that all of the listed skills had to be acquired with any one employer listed in the labor certification. The section H.14 requirements, like the five years of qualifying experience, had to be met by the priority date of the petition. They did not need to be met with each individual employer.

- A letter from [REDACTED]’s CTO (Chief Technology Officer) to the Beneficiary, dated August 12, 2010, awarding a bonus of \$2,800 in recognition of the Beneficiary’s contributions to [REDACTED]’s mobile Internet and location-based services (LBS) products.
- 2009, 2010, and 2011 Forms W-2, Wage and Tax Statements, issued by [REDACTED] to the Beneficiary, showing that the Beneficiary received “wages, tips, other compensation” of \$41,887.67 in 2009, \$88,359.92 in 2010, and \$64,961.51 in 2011.
- Two letters from former colleagues of the Beneficiary at [REDACTED] – the first from a fellow senior software engineer, dated September 25, 2019, and the second from a senior engineering manager who assertedly hired and supervised the Beneficiary, dated January 18, 2020. The letters stated in identical language that the Beneficiary was employed as a senior software engineer from June 22, 2009, to July 29, 2011, and performed the following job duties:
 - Development, testing and maintenance of Apache Tomcat Java APIs, web services and distributed systems to serve as the backend for mapping and navigation mobile applications,
 - Development, testing and maintenance of Java applications to automate the consumption, processing and storage of traffic data from various Third Party sources,
 - Development of build automation scripts,
 - Contribution to the company’s patents,
 - Mentoring junior engineers.

The letters indicated that the Beneficiary utilized the following skills and knowledge:

- Linux server administration,
- Object-oriented software development in Java,
- MySQL data storage, management and analysis,
- Distributed Systems design, development and testing,
- Memcached data storage and retrieval,
- JSP programming,
- JUnit testing,
- Bash shell scripting in Unix,
- ANT build scripting.

While the foregoing documentation establishes that the Beneficiary was employed by [REDACTED] as claimed, from June 22, 2009, to July 29, 2011, the Director concluded that the documentation was insufficient to establish that the Beneficiary gained any qualifying experience in the job because the record lacked a statement from a previous supervisor or manager describing the Beneficiary’s job duties. On appeal the Petitioner submits the above referenced letter of January 18, 2020, from [REDACTED] [REDACTED], who states that he was employed by [REDACTED] from 2005 to 2011, served as its senior engineering manager, and during that time hired and supervised the Beneficiary. There is no independent objective evidence in the record, however, showing that [REDACTED] was ever employed by [REDACTED] as a senior

engineering manager, such as letters from [REDACTED] to [REDACTED], pay records, or other documentation of [REDACTED]'s status with [REDACTED]. The absence of corroborating evidence that [REDACTED] was employed by [REDACTED] reduces the probative value of his letter attesting to the Beneficiary's employment with that company. As for the previously submitted letters relating to the Beneficiary's employment with [REDACTED], none meet the substantive requirements of 8 C.F.R. § 204.5(g)(1). The letters from [REDACTED]'s human resources office in 2011 and 2018 provide no description whatsoever of the job duties performed by the Beneficiary. Nor did the offer of employment letter of June 2009 preview the specific job duties that the Beneficiary would perform. The award letters from [REDACTED]'s CTO and CEO in 2010 and 2011 highlighted some specific on-the-job achievements by the Beneficiary, but did not provide a comprehensive description of his job duties. Finally, the letter in 2019 from a former colleague of the Beneficiary who states that he was also a senior software engineer at [REDACTED] from June 2009 to August 2011, while listing the job duties assertedly performed and specific skills assertedly utilized by the Beneficiary, does not meet the requirements of 8 C.F.R. § 204.5(g)(1) as the letter is from a former co-worker, and thus was not a letter from the former employer as the regulation prescribes. The Petitioner has not demonstrated that a similar letter, with a detailed description of the Beneficiary's job duties, is unavailable from [REDACTED].

For the reasons discussed above, we conclude that the Petitioner has not established that the Beneficiary gained any qualifying experience with Telenav.⁶

3. [REDACTED] – January 30, 2006 to June 30, 2008

The record includes copies of the following documents, in order of submission:

- A letter dated July 1, 2008, from the senior staffing coordinator of human resources for "Information Solutions Company, [REDACTED]" on the letterhead of [REDACTED], stating that the Beneficiary was employed as a full-time senior applications developer "at [REDACTED], [REDACTED]" at an annual salary of \$76,793.79 from January 30, 2006, to June 30, 2008. The letter stated that the Beneficiary's "responsibilities included software engineering, systems and network management, database administration and offshore personnel coordination."
- A letter from [REDACTED]'s VP of Human Resources, to the U.S. Embassy in Mexico City, dated November 13, 2006, concerning the Beneficiary's TN nonimmigrant visa renewal to continue his work as a Computer Systems Analyst at an annual salary of \$70,000. [REDACTED] identified itself as a subsidiary of [REDACTED] that specializes in the automation of large-scale title and tax databases and described the Beneficiary's work in general terms, as follows:

⁶ As with [REDACTED] the Director pinpointed "missing" skills from the list in section H.14 of the labor certification as an additional ground for concluding that the employment verification letter(s) did not establish that the Beneficiary gained any qualifying experience with [REDACTED]. As previously discussed, "missing" some of the skills from section H.14 is not a valid ground for denial because nothing in section H.14 requires that all of the listed skills had to be acquired with each employer listed in the labor certification.

[The Beneficiary] will continue to provide computer systems analysis services to our clients by analyzing and evaluating user requirements, procedures and operations. He will develop state of the art computer systems customized for user requirements. He will analyze and evaluate existing computer systems and devise computer programs, systems and related procedures according to user needs. He will analyze user requirements, procedures and identify problems as required. Additional responsibilities will include conferring with organizational personnel, analyzing current operational procedures and assessing input and output requirements. The letter also itemized the following specific duties:

- Analysis, design and implementation of distributed systems, web applications and information processing algorithms using proprietary and open source technologies, including but not limited to Java, J3EE, C, XML, CSS, JavaScript, HTML, SQL, UML, Linux, Windows, VMWare, Eclipse, JBuilder, PostgreSQL, MySQL, DB2, Oracle, Apache, Tomcat, Ant, Shell program, and Batch programming,
 - Configuration, maintenance and monitoring of application and database servers,
 - Analysis and documentation of current and legacy systems,
 - Technical support and customer service for production systems.
- A letter to the Beneficiary from the human resources office of [REDACTED] dated January 11, 2006, offering him a position with its subsidiary, [REDACTED] as a Computer Systems Analyst at an annual salary of \$70,000.
 - 2006, 2007, and 2008 Forms W-2, Wage and Tax Statements, issued by [REDACTED] to the Beneficiary, showing that the Beneficiary received “wages, tips, other compensation” of \$62,606.96 in 2006, \$73,136.95 in 2007, and \$40,759.37 in 2008.
 - An employment verification letter from [REDACTED]’s HR business partner to USCIS, dated October 31, 2019, “to confirm that [the Beneficiary] was employed by [REDACTED] . . as a Programmer Analyst” and compensated at an annual salary of \$70,000. The letter stated that the Beneficiary performed the following duties:
 - Development, deployment and maintenance of Apache Tomcat Java/Javascript web applications,
 - Development, deployment and maintenance of Java applications to automate the consumption, processing and storage of traffic data from various Third Party APIs and mainframes,
 - Design and optimization of MySQL databases for data reporting,

The letter also stated that the Beneficiary utilized the following skills and knowledge:

- Linux server administration,
- Object-oriented software development in Java,
- MySQL database design and optimization,

- SQL programming,
- Javascript programming,
- Bash shell scripting in Unix,
- XML parsing and processing,
- SSL configuration for web applications.

While the foregoing documentation establishes that the Beneficiary was employed by [REDACTED] as claimed, from January 30, 2006, to June 30, 2008, the Director concluded that the record was insufficient to establish that the Beneficiary gained any qualifying experience in the job because of conflicting evidence concerning the identity of the actual employer and the nature of the position. As pointed out by the Director, the initial employment verification letter, dated July 1, 2008, asserting that the Beneficiary worked at [REDACTED] as a senior applications developer, was on the letterhead of [REDACTED] and the job title in that 2008 letter conflicted with the job title of computer systems analyst in the November 13, 2006, letter from [REDACTED]'s VP of Human Resources, as well as with the job title of programmer analyst in the October 31, 2019, letter of [REDACTED] [REDACTED]'s HR Business Partner.

On appeal the Petitioner asserts that the documentation as a whole makes clear that the Beneficiary was employed by [REDACTED] not its parent company, [REDACTED]. Based on all the evidence of record, we agree. The Petitioner also asserts that the job title discrepancies resulted from the TN Nonimmigrant Visa Renewal Application on behalf of the Beneficiary which categorized the position as a computer systems analyst “in accordance with TN visa regulations” even though the job title was actually senior applications developer. We do not follow the Petitioner’s reasoning, which is not supported by the text of the referenced document. The Petitioner has not provided a satisfactory explanation of why the only document identifying the proffered position as a senior applications developer is the initial employment verification letter in 2008, whereas the preceding offer of employment letter in January 2006 and the letter pertaining to the Beneficiary’s nonimmigrant visa renewal in November 2006 (during his employment with [REDACTED]) referred to the position as a computer systems analyst, and the second employment verification letter in 2019 referred to the position as a programmer analyst. Adding to the confusion, the job duties as described in the nonimmigrant visa letter of November 13, 2016, during the Beneficiary’s employment with [REDACTED] [REDACTED] and in the second employment verification letter of October 31, 2019, do not appear to be completely in alignment. Finally, some of the job duties described in these letters do not appear to be those of an applications or software engineer, or a software applications developer, the qualifying occupations identified in the labor certification.

As we previously stated, it is incumbent upon a petitioner to resolve any inconsistencies in the record by independent objective evidence. Attempts to explain or reconcile such inconsistencies will not suffice without competent evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. at 591-92. The Beneficiary has not resolved the inconsistencies in this case, as discussed above. Based

on the evidence of record, therefore, we conclude that the Petitioner has not established that the Beneficiary gained any qualifying experience with [redacted]⁷

4. [redacted] – February 1, 2005 to January 13, 2006

The record includes copies of the following documents, in order of submission:

- A letter from a director of [redacted] dated January 20, 2006, stating that the Beneficiary was employed as a computer systems analyst from February 2005 to January 13, 2006,
- A letter to the Beneficiary from the president of [redacted] dated December 7, 2004, offering him a position as a computer systems analyst at an annual salary of \$50,000.
- 2005 and 2006 Forms W-2, Wage and Tax Statements, issued by [redacted] to the Beneficiary, showing that the Beneficiary received “wages, tips, other compensation” of \$43,749.94 in 2005 and \$5,495.09 in 2006, along with all of the Beneficiary’s bimonthly pay statements covering the employment period from February 1, 2005, to January 15, 2006.

While the payment records establish that the Beneficiary was employed by [redacted] from February 1, 2005, to January 15, 2006, the Director concluded that record was insufficient to establish that the Beneficiary gained any qualifying experience in the job because the offer of employment letter merely defined the [redacted]’s contract with the Beneficiary and the employment verification letter lacked a statement from a previous supervisor or manager describing the Beneficiary’s job duties. This evidentiary deficiency has not been remedied on appeal. The employment verification letter and offer of employment letter do not comport with the substantive requirements of 8 C.F.R. § 204.5(g)(1) because they do not provide a specific description of the duties performed by the Beneficiary. Indeed, the offer of employment letter cannot meet this requirement because it preceded the Beneficiary’s employment. Furthermore, the letters identify the job with [redacted] as a computer systems analyst, which is not one of the job titles identified on the labor certification as an acceptable alternate occupation to the proffered position of lead applications engineer. Therefore, the Petitioner has not established that the Beneficiary gained any qualifying experience with [redacted]

5. [redacted]

The record includes a copy of a letter from [redacted] Human Resources Administration Mexico, dated December 31, 2004, on the letterhead of [redacted], stating that the Beneficiary was a member of a professional society – [redacted] [redacted] – from October 12, 2004, to December 31, 2004, and received monthly dividend payments of \$28,000. The letter further stated that “this company is a supplier of professional services from the [redacted] companies, performing the following activities:

⁷ As with [redacted] and [redacted], the Director pinpointed “missing” skills from the list in section H.14 of the labor certification as an additional ground for concluding that the employment verification letter(s) did not establish that the Beneficiary gained any qualifying experience with [redacted]. As previously discussed, “missing” some of the skills from section H.14 is not a valid ground for denial because nothing in section H.14 requires that all of the listed skills had to be acquired with each employer listed in the labor certification.

- Analysis, design and development of J2EE applications,
- Development of stored procedures for IBM DB2,
- Development of XML Schemas,
- Elaboration of UML diagrams.”

This letter does not comport with the substantive requirements of 8 C.F.R. § 204.5(g)(1) because it does not identify the writer's title within the office of Human Resources Administration Mexico. Moreover, the letter does not indicate that the Beneficiary was actually employed by [redacted] or that the listed activities were primarily in one of the qualifying occupations identified in the labor certification. The letter states that the Beneficiary was a member of, and received payments from, the professional society that performed computer-related services for [redacted] from October to December 2004, but does not confirm that the Beneficiary himself performed those services as an employee of [redacted]. Therefore, the Petitioner has not established that the Beneficiary gained any qualifying experience with [redacted].

6. [redacted]

The record includes a copy of a letter dated March 10, 2004, from [redacted] Human Resources, on the letterhead of [redacted], stating that the Beneficiary “provided his independent professional services” in systems analysis and development from October 1, 2003, to January 16, 2004, including:

- Analysis, design and development of business applications,
- Analysis, design and development of web applications,
- Database design,
- Requirements collection and document preparation.

This letter does not comport with the substantive requirements of 8 C.F.R. § 204.5(g)(1) because it does not identify the writer's title within the office of Human Resources and does not provide a “specific description of the duties performed” as prescribed in the regulation. The listed job activities are very general, provide no details about the specific duties performed by the Beneficiary, and do not demonstrate that the job duties were primarily in one of the qualifying occupations identified in the labor certification. Moreover, the letter appears to indicate that the Beneficiary was not actually employed by [redacted] but instead was an independent contractor. No evidence has been submitted as to how the Beneficiary was compensated, which would clarify whether there was an employer-employee relationship between [redacted] and the Beneficiary to demonstrate that the letter was from a former employer. For the reasons discussed above, we find that the Petitioner has not established that the Beneficiary gained any qualifying experience with [redacted].

7. [redacted]

The record includes a copy of a letter from [redacted]'s CEO, dated July 28, 2009, stating that the Beneficiary worked as a full-time software engineer from January 15, 2003, to September 15, 2003, receiving a monthly payment of \$15,950, and performed the following tasks:

- Design and implementation of J2EE Information Systems,
- Component development for digital image processing,
- Administration of Weblogic Application Servers and Databases.

This letter does not comport with the substantive requirements of 8 C.F.R. § 204.5(g)(1) because it does not identify the writer's address. Neither the company name identified on the letterhead – [REDACTED] nor the internet address beneath the CEO's name – [REDACTED] – produces any online information about, or link to, the company. Absent any further evidence to confirm the company's existence or the *bona fides* of the employment verification letter, the Petitioner has not established that the Beneficiary gained any qualifying experience with [REDACTED]

III. CONCLUSION

For the reasons discussed in this decision the Petitioner has not established that the Beneficiary gained qualifying experience with any of the employers listed in the labor certification. Nor has the Petitioner established that the Beneficiary gained experience in all of the specific skills listed in section H.14 of the labor certification due to the evidentiary deficiencies and conflicts regarding the Beneficiary's employment experience. As the record does not establish that the Beneficiary gained five years of qualifying experience, including all of the specific skills listed in section H.14, by the priority date of December 20, 2018, he does not meet the minimum requirements of the labor certification and is not eligible for advanced degree professional classification in accordance with the requirements of 8 C.F.R. § 204.5(k)(3)(i)(B). The appeal will be dismissed for the above stated reasons, with each considered an independent and alternative basis for the decision.

ORDER: The appeal is dismissed.